

IN THE DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NEIGHBORHOOD ASSOCIATION
OF THE BACK BAY, INC., et al.,

Plaintiffs,

V.

FEDERAL TRANSIT
ADMINISTRATION and
MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY,

Defendants.

CA No. 04-11550-RCL

MOTION TO STRIKE PORTIONS OF TWO AFFIDAVITS

Pursuant to Fed. R. Civ. P. 56(e), the defendant Federal Transit Authority hereby moves to strike paragraph 5 of “Affidavit of Dorothy Bowmer” (Docket No. 31) and paragraph 5 of “Affidavit of Marianne Castellani” (Docket No. 32). As set forth more fully in the accompanying Memorandum, those portions of the two affidavits do not meet the standards outlined in Rule 56(e) because they are not based on personal knowledge, and therefore should not be considered by this Court.

Respectfully submitted,

By their attorney,

Dated: 29 April 2005

MICHAEL J. SULLIVAN
United States Attorney
By: /s/Barbara Healy Smith
Barbara Healy Smith
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3263

CERTIFICATE OF SERVICE

This is to certify that I have this 29th day of April 2005, served upon the persons listed below a copy of the foregoing Motion to Strike Portions of Two Affidavits by depositing in the United States mail a copy of the same in an envelope bearing sufficient postage for delivery:

Gerald Fabiano
Pierce, Davis & Perritano, LLP
Ten Winthrop Square
5th Floor
Boston, MA 02110

Stephen M. Leonard
Brown, Rudnick, Berlack
Israels, PPC
1 Financial Center
Boston, MA 02111

Herbert P. Gleason
Law Office of Herbert P.
Gleason
50 Congress Street, Room
300
Boston, MA 02109

/s/Barbara Healy Smith
Barbara Healy Smith
Assistant U.S. Attorney

L.R. 7.1 CERTIFICATION

The undersigned counsel certifies on April 29, 2005, that she has conferred with the parties and has attempted in good faith to resolve or narrow the issue.

/s/Barbara Healy Smith
Barbara Healy Smith
Assistant U.S. Attorney